

REMARKS**STATUS OF THE CLAIMS:**

Claims 1, 4 –12, 14 – 15, 23, 26, and 30 – 36 are pending. No claim has been amended and no new matter added.

DOUBLE PATENTING REJECTION:

Claims 1, 4 –12, 14 – 15, 23, 26, and 30 – 36 have been provisionally rejected on the ground of non-statutory obviousness-type double patenting, as allegedly being unpatentable over claims 1 and 6 – 15 of copending Application No. 10/679,871 in view of U.S. Patent No. 5,891,942. Although applicants respectfully disagree with the Office's conclusions, in the event that subject matter is found allowable, applicants will consider the filing of a terminal disclaimer to overcome this rejection.

OBVIOUSNESS REJECTIONS:

Claims 1, 4 –5, 9 – 12, 14 – 15, 23, 26, and 30 – 36 have been rejected under 35 U.S.C. § 103(a) as allegedly being obvious over EP 0 199 671 (hereinafter EP '671) in view of US Patent No. 5,891,942 (Parish). These claims, along with claims 6 and 7, also have been rejected under 35 U.S.C. § 103(a) as allegedly being obvious over EP '671 in view of US Patent No. 6,489,396 (Nakamura).

With respect to EP '671, the Office asserts that Example 1 in this reference discloses "the inclusion of 4.3 wt. % of a novolak dimethacrylate which reads over the claimed multifunctional acrylate." Office Action, p. 4. The Office further asserts that, even though 4.3 wt. % is not within the claimed 5 – 10 wt. % multifunctional acrylate, Parish discloses a resin-based composition having 1 – 30 wt% of a multifunctional acrylate and that one skilled in the art would have combined the teachings of EP '671 and Parish to arrive at the claimed composition.

This rejection is respectfully traversed for at least the reasons that EP '671 (1) does not teach a reactive multifunctional acrylate, as that term is used in the present application, and (2) does not teach a "dimethacrylate" as suggested by the Office. Moreover, the Parish and Nakamura teachings of a multifunctional acrylate are limited to coating compositions (e.g., are applied to inhibit water penetration, etc.). Accordingly, the exceptional pull out strength of adhesives comprising the claimed combination of components is not predictable based on the teachings of either Parish or Nakamura.

Turning to EP '671, the mixture described in Example 1 of this reference lists "Novolak methacrylate" as a component of the composition – not a dimethacrylate. Accordingly, there is no suggestion that EP '671 teaches a multifunctional acrylate. For this reason alone, the Office's reliance on EP '671 is misplaced.

Moreover, original specification at page 3 expressly states that "as used herein, the term 'reactive multifunctional acrylate' refers to **compounds** that have at least two acrylate functionalities ...". (Emphasis added.) As commonly understood, the term "compound" means a "homogeneous entity where the elements have different proportions by weight and are represented by a chemical formula." Hawley's Condensed Chemical Dictionary, 12th Ed. (1993). Therefore, multifunctional acrylates of the present invention are discrete chemical compounds and are exemplified by trimethylolpropane, dipentaerythritol tetraacrylate, and the like. (Description, p. 7) In contrast, "novolak methacrylate", as described in EP '671, is a polymeric reaction product derived from a novolak resin and acrylic acid derivative and has a molecular weight of 780 - 1200. Thus, the novolak dimethacrylate is not a compound, but instead is a polymeric reaction product which is expressed in terms of degree of polymerization (i.e., the number of monomer units which comprise the polymer).

With respect to both Parish and Nakamura, Applicants note that these disclosures are directed to coating compositions – not adhesive compositions – and, therefore, their teachings have little relevancy to the claimed invention. Moreover, Parish specifically states that the multifunctional acrylate is provided to enhance the physical properties of coating, i.e., inhibits water penetration and resists marring. (Col. 3, lines 61 – 62.) In contrast to the teachings of Parish and Nakamura, Applicants have discovered that the addition of a multifunctional acrylate to certain polymerizable vinyl esters, such as polymerizable epoxy vinyl esters, results in an adhesive composition having exceptional pull-out strength when used to anchor materials in concrete. These results could not have been predicted at the time of the invention in view of the teachings of Parish or Nakamura.

Claims 1, 4 – 12, 14 – 15, 23, 26, and 30 – 36 also have been rejected under 35 U.S.C. § 103(a) as allegedly being obvious over US 5,157,072 (Hense) in view of US 6,489,396 (Nakamura). More specifically, the Office asserts that Hense teaches all of the components of the claimed composition, albeit in overlapping compositional ranges, except that the reference does not teach a multi-functional acrylate as a cross linking agent. However, the Office contends that one skilled in the art would have known to use the multifunctional acrylate as taught by Nakamura with the composition of Hense to arrive at the claimed invention.

However, as demonstrated above, the multifunctional acrylate of Nakamura are directed only to coating compositions. While these coating compositions purportedly have desirable coating properties, such as weather resistance, impact resistance, and transparency, the claimed combination of components, including multifunctional acrylate compounds, produce desirable anchoring properties, including exceptional pull out strength. These anchoring properties would have been unpredictable at the time of the claimed invention based upon the teachings of Nakamura. Accordingly, the Office's rejections are respectfully traversed.

CONCLUSION

This correspondence is believed to be fully responsive to the pending Office Action. In view of the above remarks, Applicants assert that the claims are in condition for allowance. The Office is invited to contact Applicant's undersigned counsel by telephone to resolve any further matters in connection with this application.

Respectfully submitted,

Dated: October 22, 2008

/Jimmie Johnson/
Jimmie Johnson
Registration No. 52,485

Fox Rothschild LLP
2600 Aramark Tower
1101 Market Street
Philadelphia, PA 19107
Telephone: (215) 923-4466
Facsimile: (215) 923-2189